WSDOT GUIDANCE ON DELINEATING WETLANDS, STREAMS, AND BUFFERS ADJACENT TO ROADS AND ROAD PRISMS

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A road prism extends from the toe of one fill material slope to the other toe of fill. The road prism fill is the foundation that supports the road pavement and an integral part of the road structure. The entire road prism beyond the edge of pavement to the toe of the fill slope is vital to retain the road's structural integrity. Because roads and road prisms are transportation structures, WSDOT does not identify them as wetlands, wetland buffer, streams, or stream buffers. Roads and road prisms built through wetlands, streams, and their buffers have either already been mitigated by WSDOT when the road was constructed or pre-date wetland and stream regulations. WSDOT has agreement with the U.S. Army Corps of Engineers (USACE) and King County that roads and road prisms are structures and exempt from wetland regulation**.** ***In most cases*****, WSDOT does not treat existing elevated road prisms as wetlands, streams, or their buffers, when performing delineations or when determining potential impacts of a future project, except when local jurisdictions require WSDOT to do so.** Similarly, WSDOT does not treat elevated fill in the median between highway lanes as wetlands, streams, or their buffers.
NOTE: This guidance does not apply to slope wetlands and seeps that occur on hillside road cuts because they are not an integral part of the road structure. See WSDOT Guidance on Cut Slopes and Wetlands.

When considering elevated fill areas associated with road construction, it is important to consider the difference between a biological wetland and a jurisdictional wetland. Although wetlands in the following situations may meet the biological criteria of a wetland, federal and/or state regulators typically consider them non-jurisdictional:

> "If the alteration [making one or more of the three (factors) difficult to determine] is a natural event or a **lawful, human action that has altered the hydrology of the site so that wetland conditions no longer exist, then the site should be identified as a nonwetland**. (Washington State Wetlands Delineation Manual, p.4)
> (Example: Fill material lawfully placed in previous wetland for road construction resulting in the area no longer having hydric soil)
>
> In addition, the Shoreline Management Act and Growth Management Act definitions add:
> "**Wetlands do not include those artificial wetlands**. . . **created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway**."
> (Washington State Wetlands Delineation Manual, p.9)
> (Example: Wetlands formed on roadway fill slope that was placed after July 1, 1990)
>
> **If hydrophytic vegetation is being maintained only because of human-induced wetland hydrology that would no longer exist if the activity** (e.g.irrigation) **were to be terminated, the area should not be considered a wetland**. (Washington State Wetlands Delineation Manual, p. 79)
> (Example: Fill slopes with hydrophytic vegetation and wetland hydrology that exists only due to stormwater runoff from the road.)

The U.S. Army Corps of Engineers does not typically regulate **"water-filled depressions created in dry land incidental to construction activities" in road rights-of-way**, [33 CFR Part 328 (Corps' Final Rule for Regulatory Programs, Definition of Waters of the United States) Federal Register, Volume 51 (219), November 13, 1986] if they are clearly related to roadway construction, have compacted/fill soils, and are distinctly elevated above natural ground contours. (Example: Wetlands incidentally created from construction in elevated fill median between highway lanes.)

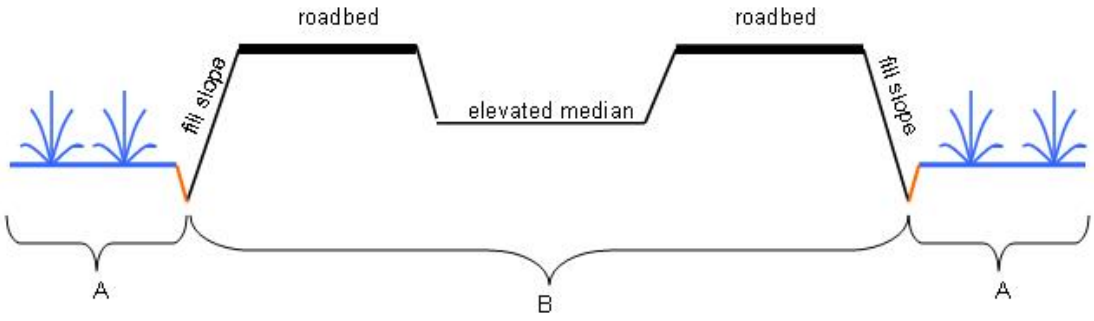
NOTE: Local jurisdictions may require mitigation for these areas.

In some cases, however, certain wetlands may not obviously meet the above criteria. As a result, WSDOT may sometimes identify, delineate, and mitigate wetlands that were unintentionally created by the presence or construction of a WSDOT roadway as part of WSDOT projects. Typically, such wetland areas must meet at least the wetland vegetation criterion and the minimal requisite wetland hydrology, and WSDOT delineates them as Atypical Situations (Section F, Paragraph 71c, Ecology 1997). Please consult the Wetland Project Contact if you have any questions.

Examples of Roadway Fill and Wetland Impacts

WSDOT roadways sometimes consist of road fill with an elevated median that was constructed in a jurisdictional wetland, as in Figure 1. Section A represents those areas outside the roadprism: 1. wetlands (in blue) and 2. the portion of the ditch that could potentially be found as wetland (since it is excavated out of wetland and not part of the road prism) (in orange). Section B represents the road prism, those fill areas from the toe of the road fill to the other toe of fill. In most cases, elevated fill areas within the road prism (B) that appear as biological wetlands are non-jurisdictional. Consequently, the placement of additional fill in Section B would not require a wetland fill permit from the US Army Corps of Engineers (USACOE) or local jurisdictions. However, for proposed construction activities outside of the roadway prism in any wetlands found in section A, WSDOT would need to obtain federal, state, and local permits and also to provide compensatory mitigation prior to conducting work.

Figure 1. Elevated roadway with an elevated median that was constructed in a jurisdictional wetland.



In some cases, the roadway median is not composed of fill material and is at the same elevation as surrounding wetlands, as shown in Figure 2. In Figure 2, section A again represents two areas: 1. wetlands (in blue) and 2. the portion of the ditch that could potentially be found as wetland (since it is excavated out of wetland and not part of the road prism) (in orange). Section B represents the road prism, those fill areas from the toe of the road fill to the other toe of fill. In most cases, elevated fill areas within the road prism (B) that appear as biological wetlands are non-jurisdictional. Consequently, regulators would not typically require permits for the placement of additional fill in Section B.

In contrast with Figure 1, Section C represents the non-filled, non-elevated median that is at the same elevation as the surrounding wetlands. Consequently, for proposed construction activities in any wetland areas within the non-elevated median (Section C) or wetlands in Section A, WSDOT would need to obtain federal, state, and local permits and also to provide compensatory mitigation prior to conducting work.

Figure 2. Elevated roadway with a non-filled median at ground level with a jurisdictional wetland.